

Office of Government Ethics

§ 2608.101

received. The 30-day period may be extended for good cause. Notice of the extension and the reasons therefor will be sent to the data subject within the 30-day period.

(b) If the OGE Director or agency reviewing official determines that the record(s) should be amended in accordance with the data subject's request, the OGE Director or agency reviewing official will take the necessary steps to advise the data subject, and to direct the appropriate system manager:

(1) To amend the record(s), and

(2) To notify previous recipients of the record(s) for which there is an accounting of disclosure that the record(s) have been amended.

(c) If the appeal decision does not grant in full the request for amendment, the decision letter will notify the data subject that he may:

(1) Obtain judicial review of the decision in accordance with the terms of the Privacy Act at 5 U.S.C. 552a(g); and

(2) File a statement setting forth his reasons for disagreeing with the decision.

(d)(1) A data subject's disagreement statement must be concise. The appropriate system manager has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues.

(2) In any disclosure of information about which an individual has filed a statement of disagreement, the appropriate system manager will clearly note any disputed portion(s) of the record(s) and will provide a copy of the statement to persons or other agencies to whom the disputed record or records has been disclosed and for whom an accounting of disclosure has been maintained. A concise statement of the reasons for not making the amendments requested may also be provided.

PART 2608—TESTIMONY BY OGE EMPLOYEES RELATING TO OFFICIAL INFORMATION AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

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AUTHORITY: 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 31 U.S.C. 9701; 44 U.S.C. 3101-3107, 3301-3303a, 3308-3314.

SOURCE: 67 FR 35710, May 21, 2002, unless otherwise noted.

Subpart A—General Provisions

§ 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of OGE.

(c) In providing for these requirements, OGE does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of OGE. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2608.102 Applicability.

This part applies to demands and requests to employees for factual or expert testimony relating to official information, or for production of official records or information, in legal proceedings in which OGE is not a named party. However, it does not apply to:

(a) Demands upon or requests for an OGE employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of OGE;

(b) Demands upon or requests for a former OGE employee to testify as to matters in which the former employee was not directly or materially involved while at the OGE;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

§ 2608.103 Definitions.

The following definitions apply to this part:

Demand means a subpoena, or an order or other command of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of an OGE employee that is issued in a legal proceeding.

General Counsel means the General Counsel of OGE or a person to whom the General Counsel has delegated authority under this part.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal pro-

ceeding includes all phases of litigation.

OGE means the U.S. Office of Government Ethics.

OGE employee or employee means:

(1)(i) Any current or former officer or employee of OGE;

(ii) Any other individual hired through contractual agreement by or on behalf of OGE or who has performed or is performing services under such an agreement for OGE; and

(iii) Any individual who served or is serving in any consulting or advisory capacity to OGE, whether formal or informal.

(2) Provided, that this definition does not include persons who are no longer employed by OGE and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with OGE.

Records or official records and information mean:

(1) All documents and materials which are OGE agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in OGE files; and

(3) All other information or materials acquired by an OGE employee in the performance of his or her official duties or because of his or her official status.

Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Requests for Testimony and Production of Documents

§ 2608.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request